UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,503	08/28/2001	Moti Shniberg	U013619-4	6842

7590 07/08/2005

Ladas & Parry
26 West 61st Street
New York, NY 10023

EXAMINER	
MARIAM, DANIEL G	
ART UNIT	PAPER NUMBER
2625	

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/941,503	SHNIBERG ET AL.	
	Examiner	Art Unit	
	DANIEL G. MARIAM	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *05 April 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *53-75* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *53-75* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Response

1. In response to the Office Action mailed on August 26, 2004 applicants have filed an amendment on January 28, 2005 canceling pending claims 1-52 and adding new claims 53-75.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 53, 61, 68 and 72 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuchinsky, et al. (Fotofile: A consumer multimedia organization and retrieval system).

With regard to claim 61, Kuchinsky, et al discloses a face recognition unit to recognize a plurality of faces in a group of still images, i.e., photos, and an indexer to index each said still image of said group of still images according to the faces recognized in said still image (See pp. 499-500, under the heading "Face Recognition"; and Figs. 1 & 2).

Claim 53 is rejected the same as claim 61 except claim 53 is a method claim. Thus, argument similar to that presented above for claim 61 is applicable to claim 53.

With regard to claim 72, Kuchinsky, et al discloses an image receiver to receive a plurality of photographs of a plurality of persons in a plurality of scenes, wherein not all of the persons appear in all of the scenes (as shown in Figs 1 & 2); and an analyzer to analyze said plurality of photographs to detect at least the faces of persons, i.e., black rectangular highlights on the pictures of David, in each of the scenes and to group the photographs according at least to

the faces of the persons appearing therein (See Fig. 2; and pp. 499-500, under the heading "Face Recognition").

Claim 68 is rejected the same as claim 72 except claim 68 is a method claim. Thus, argument similar to that presented above for claim 72 is applicable to claim 68.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 53-67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patton, et al. (6,408,301) in view of Oh, et al. (Content-Based Retrieval System for Image Using Human Face Information). .

With regard to claim 61, Patton, et al. (hereinafter "Patton") discloses a system comprising: a face (recognition unit) to recognize a plurality of faces in a group of still images (See for example, col. 4, lines 20-34.); and an indexer to index each said still image of said group of still images according to the faces (recognized) in said still image (See for example, col. 4, lines 3-13 and lines 34-60). The face recognition unit is obvious if not inherent because face recognition required so as to sort and organize the facial images for enabling easy indexing, searching and retrieving of the images that are related to a particular person, such as Grandma X, See for example, Fig. 3 and 15). Nonetheless, face recognition extremely well known in the art

of image searching and retrieving as evidenced by Oh, et al (See section 1, pp. 12-14; and Figs. 1 & 2).

Patton and Oh, et al. are combinable because they are from the same field of endeavor, i.e., image retrieval (See for example, the Abstract). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Oh, et al. with Patton since Patton's system does provide an image capturing, storing, indexing, and retrieval system where indexing and retrieval of *still and/or motion* (emphasis added by the Examiner) images can be done using key words, picture icon (hereinafter referred to as "picons") and/or voice activated commands via a device such as a computer with a monitor or DVD recorder/player with television (See col. 1, lines 48-54) . The motivation for doing so is for no other reason than to recognize faces using a face recognizer and indexing the recognized faces, and to do so would at least improve the indexing of the collection of image information, and thereby narrowing down the index to human faces which will lead to minimization of the time taken during retrieval or indexing of the stored images. Therefore, it would have been obvious to combine Oh, et al. with Patton to obtain the invention as specified in claim 61.

With regard to claim 62, the system according to claim 61 and also comprising an image retriever to retrieve images of an individual person from an index generated by said indexer (See for example, col. 1, lines 48-54; and col. 5, lines 21-45 of Patton).

With regard to claim 63, the system according to claim 62 and wherein said index comprises icon, i.e., Picon, means to employ a recognized face as an index icon (See for example, item 23, in Fig. 3 of Patton; and Figs. 1 & 2 of Oh, et al).

With regard to claim 64, the system according to claim 61 and also comprising a receiver

to receive image data via the Internet (the "Network" shown in Fig.3 of Oh, et al does broadly encompasses the "Internet" which is a wide area network").

With regard to claim 65, the system according to claim 64 and wherein said receiver is connectable to a scanner scanning images from film (Which reads on col. 5, lines 9-20 of Patton).

With regard to claim 66, the system according to claim 64 and wherein said receiver is connectable to a digital camera (See Fig.3 of Oh, et al).

With regard to claim 67, the system according to claim 62 and wherein said image retriever comprises a downloader for downloading at least one image (See Fig.3 of Oh, et al).

Claims 53, 54, 55, (56 & 57), 58, 59, and 60 are rejected the same as claims 61, 62, 63, 64, 65, 66, and 67 respectively, except claims 53, 54, 55, (56 & 57), 58, 59, and 60 are method claims. Thus, arguments similar to those presented above for claims 61, 62, 63, 64, 65, 66, and 67 are applicable to claims 53, 54, 55, (56 & 57), 58, 59, and 60.

6. Claims 68-75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patton (6,408,301) in view of Kim, et al (6,546,185).

With regard to claim 72, Patton discloses an image receiver to receive a plurality of photographs of a plurality of persons in a plurality of scenes, wherein not all of the persons appear in all of the scenes (See for example, Figs. 1 & 3); and an analyzer to analyze said plurality of photographs to detect at least the faces of persons in each of the scenes and to group, i.e., the grouping of the captured images (or photos) using representative Picons 23, the photographs according at least to the (faces of the persons) appearing therein (Patton does indeed

detect several images in a particular scene, and variously groups the collected images of the scene, See Figs. 3, 7 & 8)

Patton does not expressly call for grouping the photographs according to at least the faces of the persons. However, Kim, et al. (item 201, in Fig. 4) teaches this feature. Patton and Kim, et al. are combinable because they are from the same field of endeavor, i.e., image searching (See for example, Fig. 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the teaching of Kim, et al. with Patton since Patton's system does provide an image capturing, storing, indexing, and retrieval system where indexing and retrieval of *still and/or motion* (emphasis added by the Examiner) images can be done using key words, picture icon (hereinafter referred to as "picons") and/or voice activated commands via a device such as a computer with a monitor or DVD recorder/player with television (See col. 1, lines 48-54). The motivation for doing so would at least allow the grouping or classifying of the images detected in the scene according to faces of the persons, and to do so would at least minimize the time taken during retrieval of the stored images. Therefore, it would have been obvious to combine Kim, et al. with Patton to obtain the invention as specified in claim 72.

With regard to claim 73, the system according to claim 72 and wherein said analyzer also comprises an indexer to index said plurality of photographs at least partially in accordance with the faces of the persons appearing therein (See for example, col. 4, lines 47-57; and item 158, in Fig. 15 of Patton; and item 303, in Fig. 4 of Kim, et al).

With regard to claim 74, the system according to claim 72 and wherein said photographs include unique identification indications, i.e., grandma x or tagged with sound bytes, on said plurality of persons and said analyzer comprises: a face recognizer to recognize the faces of the

persons appearing in said photographs, an indication recognizer to recognize said unique identification indications, and a correlator to correlate said faces with said unique identification indications (See For example, Figs. 3, 4, 11 & 15 of Patton; and item 201, in Fig. 4 of Kim, et al).

With regard to claim 75, the system according to claim 72 and wherein said analyzer comprises an image indication assisted face recognizer (See Figs. 3, 7 & 8 of Patton; and Fig. 4 of Kim, et al).

Claims 68, 69, 70, and 71 are rejected the same as claims 72, 73, 74, and 75 respectively, except claims 68, 69, 70, and 71 are method claims. Thus, arguments similar to that presented above for claims 72, 73, 74, and 75 are applicable to claims 68, 69, 70, and 71.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent Numbers: 5802208(See for example, **col. 1, lines 10-25**) and 6833865.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL G. MARIAM whose telephone number is 571-272-7394. The examiner can normally be reached on M-F (7:00-4:30) FIRST FRIDAY OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, BHAVESH M. MEHTA can be reached on 571-272-7453. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DANIEL MIRIAM
PRIMARY EXAMINER

June 30, 2005